STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of A. J. HOLOWECKI, Minor.

UNPUBLISHED
December 5, 2013

No. 314921; 314922
Macomb Circuit Court
Family Division
LC No. 2011-000044-NA

Before: FORT HOOD, P.J., and SAAD and BORRELLO, JJ.

PER CURIAM.

Respondents appeal by right[1] the trial court's order terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(*i*), MCL 712A.19b(3)(g), and MCL 712A.19b(3)(j). We affirm.

Respondents first[2] argue that the trial court clearly erred when it determined that termination of their parental rights was in the minor child's best interests. We disagree.

This Court reviews the trial court's best interests findings for clear error. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). A finding is clearly erroneous if, despite evidence to support the finding, the reviewing Court on the entire record is left with the definite and firm conviction that a mistake has been made. *Id.* at 91. Once a statutory ground for termination is established, the trial court must determine whether termination is in the best interests of the child. MCL 712A.19b(5); *In re HRC*, 286 Mich App 444, 452-453; 781 NW2d 105 (2009). To make that determination, "the court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (internal citations omitted). "[T]he preponderance of the evidence

[1] Respondent mother filed a claim of appeal in Docket No. 314921. Respondent father filed a claim of appeal in Docket No. 314922. The cases were consolidated "to advance the efficient administration of the appellate process." *In re A J Holowecki*, unpublished order of the Court of Appeals, entered February 26, 2013 (Docket Nos. 314921; 314922).

[2] Although the brief filed by respondent father contests the process of resolving the settlement of the record, he did not specifically raise this issue in the statement of questions presented, and therefore, it is abandoned. *Lash v Traverse City*, 479 Mich 180, 201 n 6; 735 NW2d 628 (2007).

standard applies to the best-interest determination." *In re Moss*, 301 Mich App 76; ___ NW2d ___ (2013), slip op at 3.

The trial court found that termination was in the minor child's best interests because the child needed stability, security, and calm, nurturing environment. The court concluded that it was in the best interests of the minor child to continue living with her paternal aunt who provided that safe environment for the child. The court held that respondents did not understand the harm caused to the minor child by the domestic violence, substance abuse, and lack of suitable housing.

These findings were sufficient to sustain the trial court's conclusion that termination of respondents' parental rights was in the minor child's best interests. The court conceded that respondents and the child loved each other, but focused on "the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home," *In re Olive/Metts*, 297 Mich App at 41-42 (internal citations omitted), and determined that the paternal aunt, unlike respondents, offered her a safe, secure, and permanent home. Contrary to respondents' arguments, the court expressly considered the minor child's age when it found that there was "no reason to believe this family could be reunited within a reasonable time . . . ."

Respondent mother asserts that the trial court erred when it failed to consider the "strong bond" between her and the minor child. However, irrespective of the bond between mother and child, the domestic violence, substance abuse, and lack of suitable housing outweighed this bond. Instead, the court found that terminating respondents' parental rights was in the minor child's best interests based on concerns of permanency and security, the advantages of the aunt's home over respondents', which lacked electricity, and, indirectly, respondents' parenting ability.

Respondents next contend that the trial court clearly erred when it failed to consider a guardianship as an alternative to terminating their parental rights. We disagree. "[T]he fact that the children are in the care of a relative at the time of the termination hearing is an explicit factor to consider in determining whether termination was in the children's best interests." *In re Olive/Metts*, 297 Mich App at 43. "[A] child's placement with relatives weighs against termination under MCL 712A.19a(6)(a) . . . ." *Id.*[3]

At trial, the paternal aunt testified that she would not consider a guardianship because "she [was] afraid of [respondent father] and his level of violence," and that respondent father had previously pushed her against a wall. A caseworker testified that she would not consider a guardianship because of the minor child's fear of respondent father, the child's fear of the dark because of the lack of electricity in respondents' home, and the stress on the child caused by domestic violence between the couple.

There was sufficient record evidence for the court to conclude that termination of respondents' parental rights was in the minor child's best interests. Contrary to respondents'

[3] "The court is not required to order the agency to initiate proceedings to terminate parental rights if . . . [t]he child is being cared for by relatives." MCL 712A.19a(6)(a).

argument, the court explicitly considered relative placement, see *In re Olive/Metts*, 297 Mich App at 43, but chose termination because the minor child "needs stability, security, and a calm nurturing environment."

Affirmed.

/s/ Karen M. Fort Hood
/s/ Henry William Saad
/s/ Stephen L. Borrello